

SEXUAL HARASSMENT POLICY

I. Statement of Racing Board Policy

The Illinois Racing Board ("Board") is committed to providing a workplace that is free from all forms of discrimination, including sexual harassment. Any employee's behavior that fits the definition of sexual harassment is a form of misconduct which may result in disciplinary action. Sexual harassment could also subject the Board, and in some cases, an individual to civil penalties.

Each Board employee bears the responsibility to refrain from sexual harassment in the workplace. No employee should be subjected to unsolicited or unwelcome sexual overtures or conduct in the workplace. Furthermore, it is the responsibility of all supervisors to make sure that the work environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive or disruptive, or which create a hostile or offensive environment must be eliminated. Instances of sexual harassment must be investigated in a prompt and efficient manner.

All Board employees are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes.

II. Definition of Sexual Harassment

The Illinois Human Rights Act, defines sexual harassment as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
- (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The Courts have determined that sexual harassment is a form of discrimination under Title VII of the Civil Rights Act of 1964, as amended in 1991.

One such example is a case where a qualified individual is denied employment opportunities and benefits that are, instead, awarded to an individual who submits (voluntarily or under coercion) to sexual advances or provides sexual favors. Another example is where an individual must submit to unwelcome sexual conduct in order to receive an employment opportunity.

Various forms of conduct can be considered sexual harassment including, but not limited to:

Verbal: sexual innuendos, suggestive comments, insults, humor and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees of a sexual nature (even outside their presence);

Non-verbal: suggestive or insulting sounds (i.e. wolf whistles), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls," or kissing noises;

Visual: posters, signs, pin-ups or slogans of a sexual nature; and

Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual intercourse, or actual assault.

Sexual harassment is not limited to men harassing women. It can also include women harassing men and harassment between individuals of the same gender.

The most severe and overt forms of sexual harassment are easier to determine. Some sexual harassment is more subtle and depends to some extent on individual perception and interpretation. The trend in the Courts is to assess sexual harassment by a standard of what would offend a "reasonable woman" or a "reasonable man," depending on the gender of the alleged victim.

Subtle forms of sexual harassment include the use of "terms of endearment" like "honey," "darling," or "sweetheart," which many women find objectionable, because the use of endearments can undermine their authority and their ability to deal with men on an equal and professional level.

Board employees should err on the side of caution to avoid allegations of sexual harassment.

III. Responsibility of Individual Employees

Each individual Board employee has the responsibility to refrain from sexual harassment in the workplace.

An individual who sexually harasses a fellow worker is liable for his or her individual conduct.

The harassing employee will be subject to disciplinary action up to and including discharge in accordance with departmental policy or a bargaining agreement, as appropriate.

IV. Responsibility of Supervisory Personnel

Each supervisor is responsible for maintaining a workplace free from sexual harassment. This is accomplished by promoting a professional environment and by addressing sexual harassment and any other forms of employee misconduct.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint with seriousness, take prompt action to investigate it, report it, end it, and implement appropriate disciplinary action, while observing strict confidentiality. This procedure must be followed even in cases where an employee tells the supervisor about behavior that constitutes sexual harassment but does not want to make a formal complaint.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

The Board's Equal Employment Opportunity (EEO) Officer is available to consult with supervisors on the proper procedures to follow.

V. Procedures for Filing a Complaint

An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the supervisor and/or EEO/AA Officer and offending employee. It is not necessary for sexual harassment to be directed at the person making the complaint.

The following steps may also be taken: document or record each incident (i.e. what was said or done, date, time, place, etc.). Documentation can be strengthened by written records such as letters, notes, memos, and telephone messages.

No one making a complaint will be retaliated against even if a complaint made in good faith is not substantiated. Nor will any witness be retaliated against.

The process for making a complaint about sexual harassment falls into several stages:

1. Direct Communication. If there is sexual harassment behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial request may be verbal. If subsequent requests are needed they should be put in writing in a note or memo.
2. Contact with supervisory Personnel. The harassed employee should also promptly report the situation to his/her immediate supervisor and/or the EEO/AA Officer. If the harasser is the immediate supervisor, the situation should be reported to the EEO/AA Officer.

3. Formal Written Complaint. An employee may also report incidents of sexual harassment directly to the EEO/AA Officer. The EEO/AA Officer will begin the investigation process in a timely manner. If it is first reported to the supervisor, the supervisor will notify the EEO/AA Officer, who will in turn conduct the investigation.

Upon completion of the investigation, the EEO/AA Officer will make a recommendation to the Executive Director. If an investigation reveals that sexual harassment has occurred, appropriate disciplinary action will be taken against the offender.

4. Resolution Outside Department. It is hoped that most sexual harassment complaints can be resolved within the Board. However, an employee has the right to contact the Illinois Department of Human Rights (IDHR) and/or the United States Equal Employment Opportunity Commission (US EEOC). A charge with the IDHR must be filed within 180 days of the incident of sexual harassment. A charge with the US EEOC must be filed within 300 days of the incident.

An employee who is suddenly transferred to a lower paying job or passed over for promotion after filing a complaint with the IDHR or the US EEOC may file a retaliation charge. For the IDHR the retaliation charge must be filed within 180 days and for the US EEOC the deadline is 300 days.

An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges of assault and battery.

VI. False and Frivolous Complaints

False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. **Given the seriousness of the consequences for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.**